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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			AVERY, JEREMIAH L	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/577,928	Applicant(s) HOLZAPFEL ET AL.	
	Examiner JEREMIAH AVERY	Art Unit 2431	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21,22,25-31,34-41 and 46-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21,22,25-31,34-41 and 46-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

- I. Claims 53-60 have been added.
- II. Claims 21, 22, 25-31, 34-41 and 46-60 have been examined.
- III. Responses to Applicant's remarks have been given.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/14/10 has been entered.

Response to Arguments

- 2. The objection to claim 40 is hereby withdrawn due to the amendment to said claim.
- 3. Applicant's arguments filed 08/06/10 have been fully considered but they are not persuasive.
- 4. With regards to the Applicant's argument that Selinfreund "fails to disclose a storage medium, wherein at least one of the navigation data and the at least one stream of content cells is arranged such that, in which the content cells are not accessed according to said navigation data, provides disturbed data access of reduced quality, whereas accessing the data on the storage medium in a reproduction mode, in which the content cells are accessed according to said navigation data provides undisturbed

Art Unit: 2431

access, as recited in amended claim 1”, the Examiner asserts that the language “wherein *at least one of* said navigation data and the at least one stream of content cells” pertains to either the “navigation data” or the “one stream of content” are in the claimed arrangement.

5. Further, the “disturbed access” and “undisturbed access” of the Applicant’s claimed invention pertain to the type of access restrictions set forth within Selinfreund (e.g. being able to “read a specific track” and then have access to an “adjacent track” would pertain to the “undisturbed access” and the interference disclosed within Selinfreund would pertain to “disturbed data access” since “the first track” may be read but the “adjacent, or nearby, tracks” will not be read due to the particular “light sensitive material” being utilized to hinder such reading.), as cited below.

6. Further, regarding the Applicant’s argument that Selinfreund “fails to disclose that, in the copy mode, the content cells are not accessed according to tracks or sectors (the asserted navigation data)”, the Examiner asserts that when the “data file” within Selinfreund is being downloaded, the particular content is not accessible until it has been successfully copied onto “an appropriate disk”; thus during the copying process, the particular content cannot be accessed.

7. This is disclosed within, but not limited to column 3, lines 7-21 of Selinfreund (“A data file, for example a movie or audio file, may then be downloaded from a network to the computer *in a form that is unplayable in the absence of the code* provided by the light sensitive material on the medium. This may allow for the download of digital files such as movies, over the Internet, *the result in playable copies only when recorded onto*

Art Unit: 2431

media that contain the proper sequence of light sensitive material in or on the medium" and "in an other embodiment, *may result in an unplayable copy if not downloaded onto an appropriate disk*"; thus the Applicant's claimed invention is disclosed.

8. The Applicant states that "Independent Claims 30, 49 and 51 recite limitations analogous to the limitations recited in Claim 21, and have been amended in a manner analogous to the amendment to Claim 21"; thus the Examiner's arguments stated above and cited prior art below for Claim 21 also pertain to independent claims 30, 49 and 51.

9. Claim 39 pertains to the copying of the program and the subsequent transference of the "copy to a second storage medium". After the program is copied (claim 40), the "light sensitive material" within Selinfreund (acting as an obstruction means) has a state change, thus being modified. The copy, not the copying is unobstructed as a result of the manipulation (claimed "modifying") of the "light sensitive material" disclosed by Selinfreund.

10. Further, regarding the Applicant's argument that Selinfreund "does not disclose linking content cells in accordance with the navigation data, as required by Claim 39", the "tracks" and "sectors" within Selinfreund provide the necessary means to direct access to the desired locations of the storage medium; hence permitting successful navigation to particular content. The Examiner reiterates that the "tracks" and "sectors" within Selinfreund disclose the Applicant's claimed "navigation data".

11. Regarding the Applicant's argument that Selinfreund "is silent regarding any type of copying to a second storage medium", the Examiner refers to, but not limited to

Art Unit: 2431

column 3, lines 1-6 of Selinfreund: "the medium may include a version of software that can be freely used *and copied to other recording devices*".

12. With regards to the Applicant's arguments pertaining to the claim language of a "reproduction obstructing cell physically stored before or after a linked content cell" within Claim 40, the Examiner maintains that Selinfreund discloses this via, but not limited to, column 3, lines 47-51 and 54-58, "Absent these instructions, a light sensitive material will have been activated upon reading the first track and will interfere with the reading of adjacent, or nearby, tracks, for a period of time equal to the time of persistence of the light sensitive material". With the material interfering with the accessing of "adjacent, or nearby, tracks", said tracks being related to content, the disclosed "light sensitive material" provides obstruction to the content stored within the medium.

13. With regards to the Applicant's arguments pertaining to newly-added claim 55, the Examiner asserts that Selinfreund discloses the language within said claim as disclosed within, but not limited to column 3, lines 51-54, "*instructions provided to authorized users of a software program may instruct an installation program to read a specific track and then wait a specified time to access an adjacent track*" and column 12, lines 29-36, "The location of spots of light sensitive material 21 may be determined as described above, e.g., *by searching the medium 20 for regions, by referring to a look up table that corresponds a medium identification number with specific, expected material 21 locations, and so on*".

Art Unit: 2431

14. There must be knowledge of where to navigate within the particular storage medium to access the particular content. The "tracks" and "sectors" locations on the medium(s) within Selinfreund are identifiable to permit said access (e.g. access to track 20 is allowed, so the user(s), device(s), medium(s), etc. are taken to the location of track 20 on the particular storage medium).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 21, 22, 25-31, 34-41 and 46-60 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 21, 30, 39, 49 and 51 are directed towards a "storage medium". To render the claims statutory, the language "non-transitory" needs to be placed in front of the existing "storage medium" claim language.

Claim Objections

16. Claim 51 is objected to because of the following informality: grammatical error. The amendment to claim 51 which removes the language at the bottom of the claim "in consideration" and adds the language "in which the content cells are accessed in accordance with" renders the language grammatically improper due to the word "of" remaining (i.e. "in accordance with of said navigation data"). Appropriate correction is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21, 22, 25-31, 34-41 and 46-52 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 7,486,790 to Selinfreund et al., hereinafter Selinfreund.

17. Regarding claims 21 and 30, Selinfreund discloses a storage medium having stored thereon data representing at least one stream of content cells and a method to provide copy protection of a storage medium having stored thereon data representing at least one stream of content cells, the content cells being linked in accordance with navigation data, wherein at least one of said navigation data and the at least one stream of content cells is arranged such that accessing the data on the storage medium in a copy mode, in which the content cells are not accessed according to said navigation data, provides disturbed data access of reduced quality (column 3, lines 7-21, 47-51 and 54-58, "Absent these instructions, a light sensitive material will have been activated upon reading the first track and will interfere with the reading of adjacent, or nearby, tracks, for a period of time equal to the time of persistence of the light sensitive material", column 5, lines 26-31, column 9, lines 41-47 and column 14, lines 6-16),

[The claimed "navigation data" is interpreted by the Examiner to pertain to the "tracks" and "sectors" within Selinfreund. Further, the Examiner is interpreting the claimed "disturbed data access" and "undisturbed access" to pertain to the

Art Unit: 2431

type of access restrictions set forth within Selinfreund (e.g. being able to “read a specific track” and then have access to an “adjacent track” would pertain to the “undisturbed access” and the interference disclosed within Selinfreund would pertain to “disturbed data access” since “the first track” may be read but the “adjacent, or nearby, tracks” will not be read due to the particular “light sensitive material” being utilized to hinder such reading.))]

whereas accessing the data on the storage medium in a reproduction mode, in which the content cells are accessed according to said navigation data provides undisturbed access (column 3, lines 51-54, “instructions provided to authorized users of a software program may instruct an installation program to read a specific track and then wait a specified time to access an adjacent track”, column 10, lines 45-52 and column 13, lines 11-18, “read data unaffected by the material 21 from track a”), the storage medium having further stored thereon at least one reproduction obstructing cell physically stored before or after a linked content cell, said at least one reproduction obstructing cell being arranged such that access in said reproduction mode includes navigating around at least one reproduction obstructing cell when linked content cells are accessed, whereas access in said copy mode includes accessing linked content cells in addition to said at least one reproduction obstructing cell (column 5, lines 39-50 and 56-64, column 8, lines 56-67, column 9, lines 1-12 and 41-47 and column 10, lines 15-44).

Art Unit: 2431

18. Regarding claims 22 and 31, Selinfreund discloses wherein the copy mode is a generally linear access mode (column 10, lines 15-20, "read the sectors 20a-20f in that order").

19. Regarding claims 25 and 34, Selinfreund discloses wherein an access of said at least one reproduction obstructing cell prohibits *or* disturbs a further reproduction *or* reduces an entertainment value of reproduced content that is originally stored within the content cells on the storage medium (column 3, lines 10-14, "A data file, for example a movie or audio file, may then be downloaded from a network to the computer in a form that is unplayable in the absence of the code provided by the light sensitive material on the medium", column 13, lines 53-63 and column 14, lines 10-16, "If the disk is copied, for example, by bit-to-bit copying, the light sensitive materials 21 may not be copied, and thus the copied version of the data is uninstallable, unreadable or otherwise unusable").

20. Regarding claims 26 and 35, Selinfreund discloses wherein said at least one reproduction obstructing cell includes data having an effect that data stored on the storage medium does not conform with the DVD physical specification by *at least one of* the group comprising: infringing rules of EFM+ coding; setting incorrect ECC data for *at least one of* PI and PO; setting *at least one of* incorrect EDC, ID, CPR_MAI and IED data; addition of illegal UDF file system data; setting of illegal UDF file system data (column 3, lines 60-63, "Areas of light sensitive material may be large enough to defeat sophisticated error correction programs, such as EFM" and column 13, lines 36-45).

Art Unit: 2431

21. Regarding claims 27 and 36, Selinfreund discloses wherein said at least one reproduction obstructing cell includes data of *at least one of* the group comprising: data that does not conform to a streaming media standard appropriate to the storage medium; data that generates permutations of reproduced content stored within the content cells; data that adds content unrelated to the content stored within neighboring content cells; data that adds advertising content stored within neighboring content cells (column 5, lines 26-31, “output a string of ‘0’s rather than output actual data positioned on the CD below the material” and column 10, lines 5-14).

22. Regarding claims 28 and 38, Selinfreund discloses wherein said *at least one* reproduction obstructing cell is a stream of linked reproduction obstructing cells that is interleaved with at least one stream of content cells, wherein each of the stream linked cells provides one playback path, and the playback path corresponding to the linked reproduction obstructing cell is not followed by a reproduction device accessing the storage medium in accordance with said reproduction mode (column 2, lines 19-23, “while the material is in one state a data bit ‘1’ may be read, but while the material is in another state a data bit of ‘0’ may be read”, column 5, lines 26-31, column 10, lines 33-44 and column 13, lines 4-20).

23. Regarding claims 29 and 37, Selinfreund discloses wherein said navigation data includes branch commands that are arranged in *at least one of* pre-commands and/or post-commands of program chains that include at least one program or in cell commands within programs, which are defined as a sequence of content cells (column

Art Unit: 2431

10, lines 15-20, “read the sectors 20a-20f in that order”, column 12, lines 24-45 and column 13, lines 4-27).

24. Regarding claim 39, Selinfreund teaches a method for producing at least one copy of at least a portion of data stored on a first storage medium, the first storage medium having stored thereon data representing at least one stream of content cells, the method comprising:

linking the content cells in accordance with navigation data, wherein to produce the at least one copy, data representing the at least one stream of cells is accessed in accordance with the navigation data and wherein said accessed data is transferred as a copy to a second storage medium (column 2, lines 64-67, column 3, lines 1 and 2 and column 10, lines 45-65).

25. Regarding claim 40, Selinfreund teaches determining all reproduction obstructing cells physically stored before or after a linked content cell and modifying or removing the determined reproduction obstructing cells such that the copy of the storage medium is not obstructed (column 2, lines 64-67, column 3, lines 1 and 2 and column 10, lines 45-65).

26. Regarding claim 41, Selinfreund discloses a computer readable medium storing a program that when executed on a computer or digital signal processor, causes the computer or the digital signal processor to perform the method steps as defined in claim 30 (Figure 1, column 4, lines 4-16, column 5, lines 4-31, “CD-ROMs, Audio CDs, MO disks, and DVDs”, column 6, lines 38-67 and column 7, lines 1-15).

Art Unit: 2431

27. Regarding claim 46, Selinfreund discloses further including standard type file system structures and file content and non-standard type file system structures and file content used to locate the linked content cells on the storage medium, respectively, wherein said non-standard type file system structures and file content routes a read out device to reproduction obstruction data and cyclic data (column 7, lines 34-62, column 9, lines 2-12 and 41-47, column 10, lines 53-65, column 12, lines 32-45 and column 13, lines 4-9).

28. Regarding claim 47, Selinfreund teaches further including the step determining of a linking order of the at least one stream of linked content cells and physically storing the at least one stream of linked content cells such that a reproduction of the copy of the first storage medium is not obstructed (column 10, lines 45-65).

29. Regarding claim 48, Selinfreund teaches further including the step of locating a root navigation file only using file system structures and/or file content related to the linked content cells as described in the standard of the first storage medium (column 3, lines 54-60, column 4, lines 14-24 and column 5, lines 26-31).

30. Regarding claim 49, Selinfreund discloses a storage medium having stored thereon data representing at least one stream of content cells, the content cells being linked in accordance with navigation data, wherein *at least one of* said navigation data and the at least one stream of content cells is arranged such that accessing the data on the data carrier in a copy mode, in which the content cells are not accessed in accordance with said navigation data provides disturbed access of reduced quality (column 3, lines 47-51 and 54-58, "Absent these instructions, a light sensitive material

Art Unit: 2431

will have been activated upon reading the first track and will interfere with the reading of adjacent, or nearby, tracks, for a period of time equal to the time of persistence of the light sensitive material”, column 5, lines 26-31, column 9, lines 41-47 and column 14, lines 6-16),

whereas accessing the data on the data carrier in a reproduction mode in which the content cells are accessed in accordance with said navigation data provides undisturbed access (column 3, lines 51-54, “instructions provided to authorized users of a software program may instruct an installation program to read a specific track and then wait a specified time to access an adjacent track”, column 10, lines 45-52 and column 13, lines 11-18, “read data unaffected by the material 21 from track a”).

31. Regarding claims 50 and 52, Selinfreund discloses the storage medium further including first file system data structures and file content conforming to a storage medium standard and second file system data structures and file content not conforming to the storage medium standard, wherein the second file system data structures and file content route said copy mode to reproduction obstruction data or cyclic data, and wherein said reproduction mode will navigate around said reproduction obstruction data *or* cyclic data (column 5, lines 26-31, “output a string of ‘0’s rather than output actual data positioned on the CD below the material”, lines 39-50 and 56-64, column 8, lines 56-67, column 9, lines 1-12 and 41-47 and column 10, lines 15-44).

32. Regarding claim 51, Selinfreund teaches a method to provide copy protection of a storage medium having stored thereon data representing at least one stream of content cells, the method comprising:

Art Unit: 2431

linking the content cells in accordance with navigation data, wherein at least one of said navigation data and the at least one stream of content cells is arranged such that accessing the data on the storage medium in a copy mode, in which the content cells are not accessed in accordance with said navigation data, provides disturbed access of reduced quality (column 3, lines 47-51 and 54-58, "Absent these instructions, a light sensitive material will have been activated upon reading the first track and will interfere with the reading of adjacent, or nearby, tracks, for a period of time equal to the time of persistence of the light sensitive material", column 5, lines 26-31, column 9, lines 41-47 and column 14, lines 6-16),

whereas accessing the data on the storage medium in a reproduction mode, in which the content cells are accessed in accordance with of said navigation data provides undisturbed access (column 3, lines 51-54, "instructions provided to authorized users of a software program may instruct an installation program to read a specific track and then wait a specified time to access an adjacent track", column 10, lines 45-52 and column 13, lines 11-18, "read data unaffected by the material 21 from track a").

33. (New) Regarding claims 53 and 57, Selinfreund discloses the storage medium further including a physical storage arrangement of at least one content cell of the at least one stream of linked content cells that is not in conformity with the linking order of the content cells such that said copy mode will access said at least one stream of linked cells in an order as physically stored, and said reproduction mode will access said at least one stream of linked content cells in an order conforming to the linking order of the content cells (column 5, lines 26-31, "output a string of '0's rather than output actual

Art Unit: 2431

data positioned on the CD below the material”, lines 39-50 and 56-64, column 8, lines 56-67, column 9, lines 1-12 and 41-47 and column 10, lines 15-44).

34. (New) Regarding claims 54 and 58, Selinfreund discloses wherein a number of content cells that is accessed in the copy mode is greater than or equal to a number of content cells that is accessed according to the reproduction mode (column 2, lines 19-23, “while the material is in one state a data bit ‘1’ may be read, but while the material is in another state a data bit of ‘0’ may be read”, column 5, lines 26-31, column 10, lines 33-44 and column 13, lines 4-20).

35. (New) Regarding claims 55 and 59, Selinfreund discloses wherein the navigation data is stored in a route navigation file that is stored on the storage medium (column 3, lines 51-54, “*instructions* provided to authorized users of a software program *may instruct an installation program to read a specific track* and then wait a specified time to access an adjacent track” and column 12, lines 29-36, “Part of an authentication procedure for the medium 20 may involve reading a plurality of tracks a-d on the medium 20 that are all associated with a spot of light sensitive material 21. The location of spots of light sensitive material 21 may be determined as described above, e.g., *by searching the medium 20 for regions, by referring to a look up table that corresponds a medium identification number with specific, expected material 21 locations, and so on*”).

36. (New) Regarding claims 56 and 60, Selinfreund discloses wherein the navigation data is configured to be used to allow user interaction (column 4, lines 11-14, “instructions may be supplied on the medium itself, by the optical reader *or by the user*

Art Unit: 2431

of the device” and column 15, lines 28-31, “an authorized user may have full access to the content”).

Conclusion

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

38. The following United States Patents and Patent Application Publications are cited to further show the state of the art with respect to secure data storage and access, such as:

United States Patent No. 6,341,196 to Ando et al., which is cited to show an information recording method and information reproducing method for compressed video information.

United States Patent Application No. US 2004/0003270 to Bourne et al., which is cited to show obtaining a signed rights label (SRL) for digital content and obtaining a digital license corresponding to the content based on the SRL in a digital rights management system.

United States Patent Application Publication No. US 2004/0187161 to Cao, which is cited to show an auxiliary program association table.

United States Patent No. 6,798,976 to Tsumagari et al., which is cited to show a digital video recording/playback system with entry point processing function.

United States Patent No. 7,079,754 to Kikuchi et al., which is cited to show a digital video system.

United States Patent No. 7,058,819 to Okaue which is cited to show a data processing system, data processing method, and program providing medium.

United States Patent No. 6,842,862 to Chow et al., which is cited to show tamper resistant software encoding.

United States Patent No. 5,870,523 to Kikuchi et al., which is cited to show a recoding medium, on which a data containing navigation data is recorded, a method and apparatus for reproducing a data according to navigation data, a method and apparatus for recording a data containing navigation data on a recording.

United States Patent No. 6,118,927 to Kikuchi et al., which is cited to show a method and apparatus for reproducing a data according to navigation data.

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEREMIAH AVERY whose telephone number is (571)272-8627. The examiner can normally be reached on Monday thru Friday 8:30am-5pm.

40. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

41. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 2431

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/Jeremiah Avery/
Examiner, Art Unit 2431

/William R. Korzuch/
Supervisory Patent Examiner, Art Unit 2431